



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/171616

PRELIMINARY RECITALS

Pursuant to a petition filed January 22, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a telephone hearing was held on March 02, 2016.

The issue for determination is whether petitioner's appeal was filed timely.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

I

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED] R.Ph. (written appearance)
Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sauk County.
2. On January 24, 2014, the petitioner along with her provider, [REDACTED], requested Prior Authorization (PA) no. [REDACTED], regarding the drug Harvoni.

3. On December 3, 2015, the respondent issued a notice to petitioner indicating that it had denied the PA request. The notice specified that petitioner could appeal from the denial, and that any such appeal would need to be filed within 45 days. The notice specifically indicated that an appeal needed to be received by January 17, 2016.
4. The petitioner appealed the modification via a Request for Hearing postmarked January 22, 2016, and received on January 25, 2016.

DISCUSSION

Medical assistance recipients must appeal negative decisions within 45 days of the date of the decision or the date that the decision takes effect, whichever is later. Wis. Admin. Code § HA 3.05(3). If an appeal is filed late, the Division of Hearings and Appeals loses its legal authority to consider the matter and must dismiss it. The respondent modified the petitioner's request for Harvoni on December 3, 2015.

The respondent's letter modifying the request was sent to the petitioner's address and stated that any appeal must be filed by January 17, 2016. That letter indicated that the letter must include "[t]he reason you think the denial or modification of the prior authorization is wrong" and further cautioned that "[y]ou will lose your right to an appeal" if it is late. Because the appeal is late, I have no jurisdiction to consider it and must dismiss it. Petitioner and her provider can file a new PA request if she still seeks treatment with Harvoni, but I no longer possess jurisdiction over her appeal as it was filed untimely.

CONCLUSIONS OF LAW

There is no jurisdiction to consider the petitioner's appeal because it is untimely.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

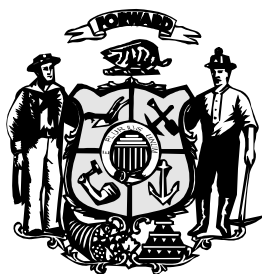
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in

this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 7th day of April, 2016

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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5005 University Avenue
Madison, WI 53705-5400

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The preceding decision was sent to the following parties on April 7, 2016.

Division of Health Care Access and Accountability